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COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

ALVARO M. et al.,

Petitioners,

v.

THE SUPERIOR COURT OF SAN
DIEGO COUNTY,

Respondent;

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Real Party in Interest.

D042225

(San Diego County Super. Ct.
No. 514090A&B)

PROCEEDINGS in mandate after reference to a Welfare and Institutions Code
section 366.26 hearing (all statutory references are to the Welfare and Institutions Code).

Susan D. Huguenor, Judge. Petitions denied.

Six-year-old K. M. and four-year-old Alvaro M., Jr., (Junior) were taken into protective custody in August 2001 after their mother, H. M., locked Junior in a bedroom and left the home. Junior is autistic. The children were dirty and had untreated eczema and head lice. H. retrieved the children several days later. The following day she was arrested after attempting to set her eleven-year-old brother, G. E., on fire. K.'s and Junior's father, Alvaro M., was in jail after convictions for drug possession, driving under the influence and resisting arrest. K. revealed G. had sexually molested her. H. admitted she and Alvaro used methamphetamines and she knew G. molested K. but she did nothing because she was embarrassed.

The court declared K. and Junior dependents on October 15, 2001, because of neglect and sexual abuse. (§ 300, subds. (b), (d) & (j)). The parents were ordered to participate in intensive drug treatment (SARMS), parenting classes and visitation. H. was required to attend general counseling. After over 18 months of reunification services the court found H. made substantive progress with her case plan, Alvaro did not, and the children would be at substantial risk if they were returned to either parent.

The parents seek writ review of the order setting a permanency hearing for K. and Junior (§ 366.26, subd. (l) & Cal. Rules of Court, rule 39.1B). Both challenge the court's finding the San Diego County Health and Human Services Agency (HHSA) provided them with reasonable services, H. claims no substantial evidence supports the finding the children would be at risk if returned to her custody, and Alvaro contends services should have been extended past the 18-month date. We issued an order to show cause, HHSA

responded and the parties waived oral argument. We review the petitions on the merits and deny them.

DISCUSSION

Adequacy of Reunification Services

Reunification services are reasonable if HHSA makes a good faith effort to assess and address the parents' problems that caused the dependency finding. (See *In re John B.* (1984) 159 Cal.App.3d 268, 275.) Our review is limited to whether the finding is supported by substantial evidence. We view the record most favorably to the finding and decide if the evidence supporting it is reasonable, credible and of solid value. (*In re Casey D.* (1999) 70 Cal.App.4th 38, 52-53.) We also recognize that in most cases more services might have been provided, and the services which are provided are often imperfect. (*Elijah R. v. Superior Court* (1998) 66 Cal.App.4th 965, 969.)

This dependency proceeding was the result of parental drug abuse and abject child neglect. K. and Junior did not receive the most basic care and were left home alone. K. was left in charge of her autistic brother and she was not protected from interfamilial sexual abuse. HHSA provided H. with inpatient drug treatment (KIVA) where she received counseling and instruction on parenting and nutrition. When H. graduated from KIVA she was offered "sober living" and subsidized housing to live apart from Alvaro because he continued to use drugs. The parents were offered counseling throughout the proceeding to address sexual abuse. Both parents participated in SARMS and visitation and were provided transportation.

H. and Alvaro argue services were inadequate because HHSA did not offer them classes for parents of autistic children. The record shows Junior's autism was apparent and diagnosed at the time of the dependency proceeding. He was a client of the Regional Center, an agency assisting the developmentally disabled. Social worker Cheryl Berglund testified she was unaware until the day of trial that Children's Hospital offered specialized classes and support to parents of autistic children. Berglund knew the foster mother received instruction from Junior's pediatrician and the Regional Center on his care. She observed that Junior had made great progress in the foster home and was aware the foster mother made repeated efforts to teach H.

Specialized classes for parenting an autistic child were available and should have been offered to H. and Alvaro. However, the parents did not request that service until the 18-month review hearing despite having the assistance of counsel. Had the parents shown a timely interest in learning specialized care, that service could have been pursued. HHSA's failure to provide specialized classes did not render the parents' case plans unreasonable because the parents did not benefit from basic parenting classes. The record shows when H. had unsupervised weekend visits with her children, she continued to leave them alone. H. did not use the medication provided for the children's eczema and Junior returned with diaper rashes and accidental injuries. K. reported her mother would not help her with her homework. Alvaro continued to use drugs and at the time of the review hearing, he had been sober for only the preceding 43 days.

H. and Alvaro also contend they should have been referred to sexual abuse group therapy because, apart from K.'s molest, social worker Berglund was aware they were

both molested as children. Alvaro asserts he should have been given a psychological evaluation because he told the social worker he suffered from anxiety and auditory hallucinations. The record shows HHSA provided the parents with individual counseling that encompassed sexual abuse and psychological issues. Berglund explained a person who has suffered sexual abuse customarily begins individual therapy and progresses to group therapy after the person is able to discuss his or her experience and problems. She explained she thought the parents would be more comfortable with an individual therapist. Berglund considered referring Alvaro for a psychological evaluation but did not do so because he continued to test positive for drugs and an evaluation would be invalid if he did not have a substantial period of sobriety.

The record shows Alvaro stopped attending therapy after two sessions. H. participated in therapy eight times in 19 months. H.'s therapist testified H.'s treatment goals were to reunify with her children, accept responsibility, recognize problematic behavior that interfered with her ability to parent, learn to parent her autistic son and protect her children from sexual abuse and Alvaro's drug use. The therapist believed H. was positive about therapy and had made some progress, but he acknowledged that the infrequent participation was problematic. The record shows H. made little effort to address her problems and reach her goals through therapy.

H. also contends she should have been given domestic violence treatment when K. reported her parents fought in early 2003. Berglund testified she decided not to offer domestic violence treatment because there was no police report, the parents denied fighting and she could not substantiate K.'s report.

We conclude the services offered to H. and Alvaro were reasonable under the circumstances and do not address Alvaro's claim services should have been extended past the 18-month date.

Risk of Detriment

H. contends no substantial evidence supports the court's finding returning the children to her custody would create a substantial risk of detriment. She emphasizes she complied with drug treatment, made great progress on her case plan and was able to care for Alvaro's and her infant son born in July 2002.

The primary goals of H.'s case plan were to be able to meet her children's physical, emotional, medical and educational needs, to be able to protect them and to obtain and maintain a suitable residence. Throughout the proceeding H. continued her relationship with Alvaro, despite the fact he continued to use drugs and was repeatedly incarcerated. Although H. obtained a studio apartment and denied Alvaro lived with her, he was present at every unannounced visit made by the social worker and his probation officer. H. was unemployed and remained emotionally and economically dependent on Alvaro. Because H. could not separate from Alvaro and he continued to use drugs, K. and Junior would be at substantial risk of harm if returned to H.

DISPOSITION

The petitions are denied.

McINTYRE, J.

WE CONCUR:

McDONALD, Acting P. J.

O'ROURKE, J.